

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

UNITED STATES OF AMERICA

PLAINTIFF

V.

CIVIL ACTION NO.: 3:16-CV-00622-CWR-FKB

THE STATE OF MISSISSIPPI

DEFENDANT

**THE STATE OF MISSISSIPPI'S TRIAL BENCH BRIEF
REGARDING ADMISSIBILITY OF POST-DECEMBER 31, 2018 EVENTS**

The State of Mississippi submits this Trial Bench Brief to clarify the admissibility of events or matters that occurred after December 31, 2018.

Plaintiff stated several times during trial that there is a fact cut-off date of December 31, 2018. That is true, but it is subject to the following exceptions, which the parties stipulated to: "The Parties acknowledge that as of December 31, 2018, the State of Mississippi was in the process of implementing certain changes (the 'Ongoing Changes'), planned on or before December 31, 2018, to the State's mental health system for adults. The Ongoing Changes include: grant funding to expand crisis services and establish an additional PACT team, as evidenced by deposition exhibits 861 through 866, establishing a second additional PACT team, as described in the Lutterman Expert Report; and combining the Bureaus of Mental Health, the Bureau of Community Mental Health Services, and the Bureau of Alcohol & Drug Services, as described in the Lutterman Expert Report. The State will make Diana Mikula available for a deposition ... on or before March 31, 2019. Ms. Mikula's deposition will include questions and answers related to implementation of the Ongoing Changes. Evidence regarding the Ongoing Changes that was requested in discovery, but which was not disclosed on or before Ms. Mikula's deposition, shall not be admitted at trial." (ECF 170 at ¶ 3.a., pp. 1-2).

As the parties stipulated, the State should be permitted to offer evidence and testimony at trial regarding the Ongoing Changes as of the date of Ms. Mikula's deposition (March 28, 2019). The Ongoing Matters include the matters set forth in the document attached to this Brief as Exhibit A. Exhibit A is trial exhibit DX-12 and has been pre-admitted into evidence.

This, the 17th day of June, 2019.

Respectfully submitted,

PHELPS DUNBAR LLP

BY: /s/ James W. Shelson

Reuben V. Anderson, MB 1587
W. Thomas Siler, MB 6791
James W. Shelson, MB 9693
Nash E. Gilmore, MB 105554
4270 I-55 North
Jackson, Mississippi 39211-6391
Post Office Box 16114
Jackson, Mississippi 39236-6114
Telephone: 601-352-2300
Telecopier: 601-360-9777
Email: andersor@phelps.com
silert@phelps.com
shelsonj@phelps.com
nash.gilmore@phelps.com

Harold Pizzetta, III, MB 99867
Assistant Attorney General
General Civil Division
Walter Sillers Building
550 High Street
Jackson, MS 39201
Telephone: 601-359-3816
Telecopier: 601-359-2003
Email: HPIZZ@ago.state.ms.us

Mary Jo Woods, MB 10468
Special Assistant Attorney General
Mississippi Attorney General's Office
Walter Sillers Building
550 High Street
Jackson, MS 39201

Telephone: 601-359-3020
Telecopier: 601-359-2003
Email: MWOOD@ago.state.ms.us

Attorneys for the State of Mississippi

CERTIFICATE OF SERVICE

I certify that on June 17, 2019, I electronically filed this documents with the Clerk of the Court using the ECF system, which sent notification of such filing to all ECF counsel of record in this action.

/s/ James W. Shelson
JAMES W. SHELSON